

## § 1240.113

## 7 CFR Ch. XI (1–1–04 Edition)

honey as an ingredient in the manufacture of formulated products, the producer is a producer-packer.

(f) When a producer uses honey from his or her own production in the manufacture of formulated products for his or her own account and for the account of others, the producer is the producer-packer.

(g) When a producer delivers a lot of honey to a processor who processes and packages a portion of such lot of honey for his or her own account and sells the balance of the lot, with or without further processing, to another processor or commercial user, the first processor is the first handler for all the honey.

(h) When a producer supplies honey to a cooperative marketing organization which sells or markets the honey, with or without further processing and packaging, the cooperative marketing organization becomes the first handler upon physical delivery to such cooperative.

(i) When a producer uses honey from his or her own production for feeding his or her own bees, such honey is not handled at that time. Honey in any form sold and shipped to any persons for the purpose of feeding bees is handled and is subject to assessment. The buyer of the honey for feeding bees is the first handler.

### § 1240.113 **Importer.**

Each lot of honey and honey products imported into the United States is subject to assessment under this part. Such assessment shall be paid by the importer of such honey and honey products at the time of entry or withdrawal for consumption into the United States. Any person who imports honey or honey products into the United States as principal, agent, broker, or consignee for honey produced outside the United States and imported into the United States shall be the importer.

### § 1240.114 **Exemption procedures.**

(a) Producers who produce, producer-packers who produce and handle, and importers who import honey and who wish to claim an exemption from assessments pursuant to §§ 1240.42 (a) and (b) should submit an application to the Board for a certificate of exemption.

(b) Upon receipt of the claim for exemption, the Board shall investigate, to the extent practicable, the request for exemption. The Board will then issue, if deemed appropriate, an exemption certificate to each person who is eligible to receive one.

(c) The Secretary, upon recommendation by the Board, may exempt that portion of assessments collected under a qualified State plan; *Provided*, That the State plan meets all of the requirements in § 1240.42(d) of the Order.

(1) First handlers collecting assessments from producers for the State plan and the Board shall forward that portion of assessments collected under the order in excess of the State assessment to the Board.

(2) Upon request of the Board, producers having an exemption from a portion of the assessments under this Order due to payment of assessments under a State plan, shall be required to furnish evidence to the Board that the assessments to the State have been paid.

[52 FR 3103, Feb. 2, 1987, as amended at 56 FR 37458, Aug. 7, 1991; 59 FR 22493, May 2, 1994]

### § 1240.115 **Levy of assessments.**

(a) *Time of payment.* The assessment shall become due at the time assessable honey is first handled or entered or withdrawn for consumption into the United States pursuant to this part.

(b) An assessment of one cent per pound is levied on honey produced in the United States, on imported honey entered or withdrawn for consumption into the United States, and on honey used in imported honey products entered or withdrawn for consumption into the United States except that assessments shall not be levied on the following:

(1) Any persons other than importers holding a valid exemption certificate during the twelve month period ending on December 31;

(2) That portion of honey which does not enter the current of commerce which is utilized solely to sustain a producers or producer-packer's own colonies of bees;

(3) That portion of otherwise assessable honey which is contained in imported products wherein honey is not a